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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/145,167	09/01/1998	IRENE HU FERNANDEZ	FERN-P004	5652

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EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/145,167

Applicant(s)

FERNANDEZ ET AL.

Examiner

Akiba K Robinson-Boyce

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. Due to communications filed 9/22/03, the following is a non-final office action. Claims 1-20 are pending in this application and have been examined on the merits. Claims 1, 6, 7, 9 and 19 have been amended. The previous rejection has been withdrawn and the following rejection reflects the claims as amended.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 9/22/03 has been entered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S. C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4-8, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Levergood et al. (US Patent 5,708,780).

As per claim 1, Levergood et al. discloses:

a method for enhancing on-line commerce comprising the steps of, (Abstract, lines 1-4):

determining by a server an attribute of a client, (Col. 115, lines 9-10 and 15-16),

classifying the client in a set according to the attribute, (Col. 115, lines 33-35);

initiating before a request by any client in such set a message by the server,

(Col. 9, lines 20-24, [shows an embodiment where the client is not submitting a request, but is responding to a prompt, which replaces the client's "dial" command. Once the client responds to the prompt, Message 1 is initiated]).

wherein the message is initiated adaptively or dynamically according to the attributes of a plurality of clients classified in the set, the classification being contextually mapped with the initiated message by comparing attributes to classify each client in the set the set classification being identified in group registry, (Col. 6, line 58-Col. 7, line 14, Col. 10, lines 24-36).

As per claim 2, Levergood et al. discloses:

the attribute comprises a monitored location, time value, selection, condition, or affiliation associated with the client, (Col.. 115, lines 17-18, [time value])

As per claims 4, 5, Levergood et al. discloses:

the attribute is provided in a memory, and the client is classified by comparing the attribute with another attribute stored in the memory/the client is classified in the set according to a determined substantial similarity, (Col. 115, lines 9-10, lines 32-34).

Levergood et al. doesn't specifically disclose determining a second attribute of a second or third client, however, this feature is inherent with the system because in a client-server environment, multiple clients are connected to a server and are interchangeable. The client that has interactions with the server can be substituted for another client in the network.

As per claims 6 and 7, Levergood et al. discloses:

determining by the server a second attribute of the client, (Col. 115, lines 17-18);
classifying the client in a second set according to the second attribute, (Col. 115, lines 32-34);

initiating before a request by any client in such second set/set a second message by the server to one or more clients classified in the second set, (Col. 3, lines 16-20, Col. 9, lines 20-24, [shows an embodiment where the client is not submitting a request, but is responding to a prompt, which replaces the client's "dial" command. Once the client responds to the prompt, Message 1 is initiated]).

Levergood et al. doesn't specifically disclose determining a second attribute of a second or third client, however, this feature is inherent with the system because in a client-server environment, multiple clients are connected to a server and are

interchangeable. The client that has interactions with the server can be substituted for another client in the network.

As per claims 19 and 20, Levergood et al. discloses:

receiving an attribute signal from a first node, (Col. 115, lines 9-10);

transmitting the attribute signal to a second node for classifying the first node in a set according to the attribute signal; (Col. 115, lines 32-34);

receiving a message signal from the second node /transmitting the message signal to one or more nodes classified in the set, the message signal being initiated before a message request from the first node adaptively or dynamically according to a plurality of attribute signals and identified in a group registry, (Col. 9, lines 20-24, [shows an embodiment where the client is not submitting a request, but is responding to a prompt, which replaces the client's "dial" command. Once the client responds to the prompt, Message 1 is posted to the URL specified by the form page, therefore, Message 1 is transmitted to the nodes classified by the URL]).

Levergood et al. doesn't specifically disclose determining a second attribute of a second or third client, however, this feature is inherent with the system because in a client-server environment, multiple clients are connected to a server and are interchangeable. The client that has interactions with the server can be substituted for another client in the network.

As per claim 8, Levergood et al. discloses:

the message comprises a commercial offering, an application program, a still image, or a video stream, (Abstract, lines 4-7).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Levergood et al, in further view of Hoffberg et al. (US Patent 5,774,357).

As per claim 3, Levergood et al. fails to teach the following, however Hoffberg et al. discloses:

the attribute is provided by one or more client sensor, (Fig. 26, [2602], Col. 95, lines 64-66).

It would have been obvious to one of ordinary skill in the art to provide the attributes by client sensors because this is the type of device needed to provide the impulse necessary for the detection of client characteristics.

7. Claims 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffberg et al. (US Patent 5,774,357) in further view of Levergood et al. (US Patent 5,708,780)

As per claims 9 and 13, Hoffberg et al. discloses:

an interface, (Abstract, line 4),

a processor, (Col. 95, line 61-63);

and a sensor, (Col. 95, line 64-66);

wherein the interface is accessible by a server coupled to a network, (Col. 84, lines 8-25 [control]), whereby the processor may provide the network access to a signal generated by the sensor; the interface being classifiable in a set according to the signal, the interface receiving a network signal according to the classified set, the network signal being initiated before a client message request adaptively or dynamically...the classification being contextually mapped with the network signals and identified in a group registry, (Col. 25, lines 46-55 and Col. 26, lines 57-67, Col. 9, lines 20-24, [shows an embodiment where the client is not submitting a request, but is responding to a prompt, which replaces the client's "dial" command. Once the client responds to the prompt, Message 1 is initiated]).

Hoffberg et al. doesn't specifically disclose accessing a second signal generated by the sensor, however, this feature is inherent with the system because the user characteristics are determined by signals generated by the client and since there is more than one characteristic, more than one signal will be generated.

Hoffberg, et al fails to teach the following, however Levergood, et al discloses: according to a plurality of generated sensor signals associated with the classified set, (Col. 6, line 58-Col. 7, line 14, Col. 10, lines 24-36).

It would have been obvious to one of ordinary skill in the art to incorporate the idea of associating the classified set into adaptively or dynamically directing the network signal according to the generated sensor signals because in order to direct these type of signals correctly and efficiently, they need to be classified or grouped in a specific order.

As per claim 10, Hoffberg et al. discloses:
the generated signal represents...a-time value, (Col. 23, lines 51-53,
[frequency]).

As per claims 11 and 12, Hoffberg et al. discloses:
the generated signal is stored in a database and the interface is classified by
comparing the generated signal with another generated signal stored in the
database/the generated signal is compared with the other generated signal to determine
a substantial similarity or recognizable pattern there between, (Col. 95, lines 1-25).

As per claim 14, Hoffberg et al. discloses:
the network signal comprises a commercial offering, an application program, a
still image, or a video stream, (Abstract, lines 2-4, [application program]).

As per claim 15, both Levergood, et al and Hoffberg et al. fail to disclose:
the sensor comprises a global positioning satellite system (GPS) receiver for
determining a position of the client.

Official notice is taken that it is old and well known in the client-server art to have
a sensor that comprises a GPS. It would have been obvious to one of ordinary skill in
the art to have a sensor that comprises a GPS because it is necessary for one to locate
the position of the client in order to determine attributes since this information can
change according to location.

As per claim 16, Hoffberg et al. fails to disclose the following, however Levergood
et al. discloses:

the interface further comprises a web browser application for accessing the network, (Abstract, lines 1-7).

It would have been obvious to one of ordinary skill in the art to have a web browser on an interface because this is the most common type of application used in a client-server environment that makes system interaction and network access easier.

As per claim 17, both Levergood et al. and Hoffberg et al. fail to teach the following:

the network access through the web browser application is secured by the sensor determining a genetic identification of a user of the web browser application.

Official notice is taken that it is old and well known in the client-server art for the web browser to determine a genetic identification of a user. It would have been obvious to one of ordinary skill in the art for the web browser to determine a genetic identification of a user for marketing and marketing analysis purposes.

As per claim 18, Hoffberg et al. fails to disclose the following:

the interface sends a transaction signal in response to the network signal.

Official notice is taken that it is old and well known in the client-server art to send a transaction signal in response to the network signal. It would have been obvious to one of ordinary skill in the art to send a transaction signal in response to the network signal because this is how one can determine if the attributes were successfully received.

Conclusion

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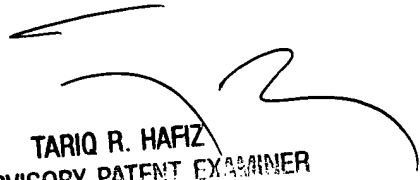
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 703-305-1340. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

ARB

A. R. B.
January 27, 2004


TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
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